

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CARL SCAGGS and )  
NELLIE SCAGGS, )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No. 4:08-CV-01163 ERW  
 )  
3M COMPANY, AS SUCCESSOR BY )  
MERGER TO MINNESOTA MINING )  
& MANUFACTURING COMPANY )  
AND/OR ITS PREDECESSORS/ )  
SUCCESSORS IN INTERST )  
MINE SAFETY APPLIANCES )  
 )  
Defendants. ) JURY TRIAL DEMANDED

**PLAINTIFFS' MOTION FOR LEAVE TO FILE DAUBERT CHALLENGES ON  
MSA'S EXPERTS, NEIL ETTINGER, M.D. AND SHELDON RABINOVITZ, PhD  
BY SEPTEMBER 24, 2010**

Today represents the deadline to file challenges to experts. However, both of these experts were not presented to Plaintiffs for deposition until today. One of the experts, Dr. Neil Ettinger, who was designated late by MSA and allowed only after leave from this Court, will not even be presented until 5:00 p.m. this evening.

In the event that either of these experts offers testimony that may be subject to an objection, Plaintiffs request an extension of the deadline to file challenging motions, on these experts only, until September 24, 2010.

WHEREFORE, Plaintiffs, with the agreement of all parties to this case, hereby requests this Court grant the Motion for Leave to File Daubert Challenges on MSA's Experts, Neil Ettinger, M.D. and Sheldon Rabinovitz, Ph.D. by September 24, 2010.

Respectfully submitted,

MALONEY★MARTIN, LLP

/s/ Mike Martin

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**ATTORNEYS FOR PLAINTIFFS**

**STATEMENT OF COMPLIANCE**  
**RULE 3.04**

Pursuant to Local Rule 3.04, Plaintiffs have conferred with defense counsel and they do not oppose this motion.

**CERTIFICATE OF SERVICE**

Pursuant to Rule 5 of the Federal Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing document has been provided to all counsel of record and/or attorneys-in-charge via Certified Mail, Return Receipt Requested, and/or via facsimile, and/or via hand delivery, and/or via U.S. Mail on this the 15th day of September, 2010.

/s/ Mike Martin

MIKE MARTIN